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WASHINGTON — Vice Admiral Bobby R. Inman, head of the National Security Agency — the Big Ear that monitors telephone calls and cables — found himself in a terrible dilemma in early April.

On March 30, he had sent Stansfield Turner of the C.I.A. a sensitive intercept showing how an unnamed American citizen was conspiring to break the foreign agents registration law by receiving millions in commissions on oil sales from Libya. Turner promptly requested the name, then told Zbigniew Brzezinski at the White House that Billy Carter was making his deal.

Now Bobby Inman had a second intercept, proving that the President had done nothing to dissuade his brother from profiting from opening the White House door to Libya. The information indicated that Dictator Qaddafi had ordered his man in Washington to pay the President's brother \$200,000.

The dilemma: Should the White House, which had already breached security and endangered sources by revealing the first message to Billy Carter, be trusted further? Or should the National Security Agency entertain suspicion of the abetting of criminal conduct in the White House, and deny to Mr. Brzezinski and the C.I.A. chief information of such personal importance to the President?

Admiral Inman consulted "Procedures for Reporting Federal Crimes Under Executive Order 12036," dated August 15, 1979, and saw that the crimes included "acting as an unregistered foreign agent" as well as "communicating classified information." He read the overriding Section H: "When the head of an [intelligence] agency believes that circumstances of security warrant it, he may directly report to the Attorney General . . ."

On April 10 (according to Ben Civiletti's appointment calendar) Bobby Inman met with the Attorney General. He showed the nation's chief law offi-

## ESSAY

# 'Before The Sun Comes Up'

By William Safire

cer two pieces of evidence of the developing crime: the first item about Billy Carter's oil deal that had gone through the C.I.A.'s Turner to the White House, and the second item about the impending payoff.

With considerable courage, the intelligence officer apparently made the decision to withhold the second item from the White House and the C.I.A. He saw evidence of a crime and went only to Justice: up to that point, the System worked.

Then the System was subverted. The Attorney General waited three days and then called in the head of his Criminal Division, Philip Heymann, to tell him to leave the case open. Incredibly, the politically sensitive Heymann did not ask for the information about the President's brother. Neither man did anything to help his own investigators.

Blocking these evidentiary leads from the lawmen with a "need to know" was the Attorney General's first obstruction of Justice. The men in Internal Security — cleared for Top Secret — were not even given the first item which had been passed on to Libya's agent by the White House. For two months, as Justice professionals later swore, their work was impeded — which took Jimmy Carter safely past the primary season.

Despite the blockage of evidence at the top, the professionals discovered the payments on their own. When the Attorney General learned of this potential embarrassment to his leader, he obstructed Justice officials a second time. Having requested a meeting in the coming week with Jimmy Carter, he instructed his men: "Don't do anything for ten days." (Civiletti claims he does not recall this unconscionable intervention; at least two witnesses swear to it.)

Then Ben Civiletti went to the Oval Office, asked Jimmy Carter's legal counsel to leave, and — with no witness present — told the President what to tell his brother to do to escape punishment for his illegal influence-peddling.

After the successful obstruction, came the cover-up: both the White House and the Attorney General, when asked about direct contact in this case, lied. Any communication? Answer: A flat and pious "No." Only after the Senate investigation was launched, and the President's diary note of the Civiletti assurance of no punishment became evidence that would have to be revealed, was the truth forced out. Without the inquiry, both the President and the Attorney General would be insisting today that they had had "no contact."

In his Senate testimony, my old friend Baltimore Ben — a skilled attorney as loyal to his President as John Mitchell was to his — admitted he had been "incorrect," "wrong," "in error." But his protective falsehood was no mistake at all; with deception aforethought, he lied.

"If a member of my Cabinet ever lies to the public or to the Congress," promised Jimmy Carter on April 4, 1976, "he or she will be looking for a new job before the sun comes up the next morning."

It's the next morning. The sun is up. And Jimmy Carter and his Attorney General are still pretending there has been "no impropriety."